

Anthony Carter, Sr.
28 Monticello Blvd.
New Castle. Del. 19720
(302) 562-7587

United States District Court
District Of Delaware
J. Caleb Boggs Federal Bldg.
844 North King St., Room 6100
Wilmington, DE 19801

RE: Carter v. Marmon Keystone
C.A. No.: 05-311KAJ

2007 JAN 22 AM 11:48
BD scanned
U.S. DISTRICT COURT
DISTRICT OF DELAWARE

I. MOTION OF RIGHT TO APPEAL

In compliance with the request to Defendant's renewed motion to dismiss my complaint on the grounds that a copy of complaint did not accompany the request for waiver. I would like to take this time to tell the court why I think that my case should not be dismissed.

II. ARGUMENT

I believe that I have been discriminated and retaliated against in violation of the Title VII of the Civil Rights Act of 1964, as amended and the Delaware Discrimination in Employment Act based on my race (black). I have listed below some of the things Marmon Keystone did to me that was in violation of the Title VII of the Civil Rights Act of 1964

1. I spoke to Tim Slaughter warehouse supervisor over 25 times about the way I was being discriminated against with the workload. And he did nothing about it.
2. I had 4 written warnings with very bad Fact to back them up.
3. When started working for Mormon Keystone 2 May 02 earning \$10.00 an hour, I was told after 90 days that I would earn \$11.00 a hour and that did not happen

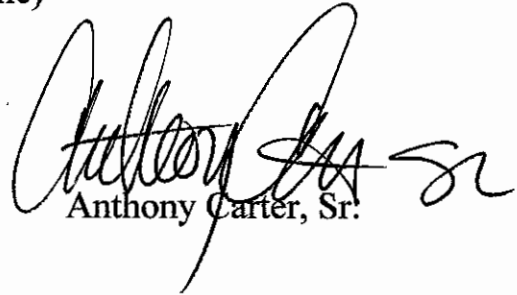
4. Because I was picked as one of the "top notch" employees, I was to McConnell burg Pa. to work.
5. Working outside in temperatures over 90 cutting down a jungle outside the warehouse.
6. Called a meeting on 26 Jan.04 at the branch with all the managers and human resources representative to tell them that I was being discriminated against, in violation of title VII of the civil rights act of 1964. And that I wanted it to stop and to be put and the same playing field as the other warehouse workers.
7. I was not happy with the outcome of the meeting so I took the next step and called the company's employee connection line on 28 Jan. 04.
8. I spoke to Linda McCue at the employee connection. I advised her of the meeting that I had on 26 Jan.04, and she told me that she would investigate it would get back too me by the end of the week.
9. Her investigation was to call Dave Levenson over the phone and to hear his side of the story and of course he would say that he was not bias against me and that was as far as the investigation went.
10. Respondent subjected me to extreme drug test requirements after an alleged incident by requesting me to wait until 12:00 midnight on Friday night to take a drug test while I cared for my sons (I completed the drug test about 10:00 pm as instructed.)

III. CONCLUSION

After I reported my hostile work conditions to Human Resources, I was accused (one week later) of operated a crane in an unsafe manner. After I was being conducted in a week of investigation by Tim Wamba without pay I was discharge on 2/19/04. Why I feel that this case should not be dismissed because, I call the, Employee Connection line with a complaint of being racial discrimination no one was suspended pending an investigation. I told my story and that was it. Dave Levenson was called on the phone and was asked his side of the story and that was as far as the investigation went. After working all day on Friday 13 Feb.04, I was called at home to come back to work to take an alcohol and drug test and did not return home until after 10:30 pm on 13 Feb.04 I was also told that if I did not come and take the test I would be discharge. Even thought the crane that I was operation did not have the proper equipment and did not complete a final inspection at that time. And why didn't the electrician on the scissors lift have the power off or

lock out tag out on the overhead crane. On 16 Feb. 04 I received a letter in the mail from Tim Wamba telling me that a similar incident involving the same electrician. I was suspended pending an investigation and the other person still has a job. Respondent continuously subjected me to disparate treatment, hostile working conditions and ultimate termination during my tenure and after I complained about harassment and racial discrimination. (See exhibit A on my history at Marmon Keystone)

Dated 22 Jan.07



Anthony Carter, Sr.

cc: Bayard J. Snyder
Snyder & Associates, P.A.
300 Delaware Avenue
Suite 1014
Wilmington, DE 19801

Marmon Keystone Work History

I Anthony Carter, Sr. started working on 2 May 02 with Marmon Keystone as an warehouse person earning \$10.00 dollars a hr. Dave Levenson who was the Operation Manager interviewed me. I was advised I would be starting at \$10.00 a hr. but in 90 days would be earning \$11.00 dollars an hr. After working there for about 60 days a memo was posted stating, in order to be considered a warehouse saw man, you had to be able to work all of the saws in the warehouse. At that time, I was working third shift and went to my lead man Rick Collins and asked how I could learn all the saws with only three people on our shift. I was advised by Rick Collins that with only three people on the shift it would be impossible to train me on the last two saws, because they didn't have the manpower. Out of the six saws I was able to operate four of the saws. I took it upon myself to go in on my time to speak with Dave Levenson. Dave did advise me that JLG one of the companies that we do business for was shutting down for two weeks and that was going to move me to 1st shift to teach me the two I needed to learn during their down time.

When the two weeks came around Dave Levenson had Chris Fountain and I outside in temperatures over 90 cutting down big weeds. That took us two weeks to cut down. Dave stated that it was very important to get the weeds cut down so he wouldn't have time to get me the training to me that in needed. But he told me that he would see that I received the training at a later date. That training was never received so, I never received the \$1.00 dollar raise.

In February 2003 during the snow storm the roof collapsed in the warehouse. That Monday I went to work and was told by a security guard no one was allowed in the building. I went home waiting to hear from someone to see what was happening, I never received a call. On Tuesday, I called Rick Collins at home who was the lead man on third shift. He told me that he was working

Marmon Keystone Work History

and that someone should have called me. He did advise me when he went back to work on Wednesday he would have Dave Levenson call me to let me know what was happening. On Wednesday morning, around 9:00 am Dave called me at home and apologized for not calling me back. He stated he called my house on Saturday and spoke to my son who told him that I wasn't home. Dave told my son he would call back later. Dave told me that everyone was laid off except for two people and that I should go to the unemployment office and that they were aware of what was going on. Around 11:00 am the same day Dave called me back and asked me to report to work on Thursday. He told me starting on Monday I would be going to Mc Connellsburg Pa to work. I would be leaving on Monday morning and coming home on Friday evenings. Dave told me that they were only picking the "top notch" employees to come back to work and to go to McConnellsburg. At that time, I only had 10 months of service with the company. I went to McConnellsburg and worked there for about tow months, when Dave Levenson asked me to return to the New Castle De. Branch to work.

A few weeks after returning to the New Castle branch Chris Fountain and I were given a job to cut down some very high weeds outside the company's fence it was like a jungle out there with the temperatures were in the high 90's. I asked Tim Slaughter why we couldn't get any help and he told Chris and I that Dave Levenson had everyone else doing other jobs. Approximately one month after returning we were asked to clean up the inside yard such as, picking up bands, wood and trash. One day while at lunch we had heavy rains. Chris Fountain, Dave Stanford and I were sitting in the break room waiting for the rain to stop when Dave Levenson walked in the break room and told us to go outside and finish cleaning up the yard, approximately five minutes later the rain

Marmon Keystone Work History

stopped and we all proceeded to go outside to finish the job cleaning up the yard. The following Monday Tim Wamba the branch manager, Dave Levenson and Tim Slaughter called Chris Fountain, Dave Stanford and I into his office for a meeting. Tim Wamba told us he was disappointed in us because we were his "top notch" workers and there were people with more seniority that he could have called back that was still laid off. He told us because we were his "top notch" workers he expected more from us. He also told us that he would order rain gear so that if it was raining again that we would be protected. He then said that he was given us a verbal written warning about the incident that we would need to sign. I did sign it with apprehension because; I felt it was an unsafe environment to be working in the rain.

About one month later Tim Slaughter said he wanted to talk to Chris and myself one on one in his office Chris Fountain went in first and when he was done I followed. When I went into Tim's office Dave Levenson was also in the office. He gave me a written memo to read he said that I went to lunch 20 minutes early the day before. After reading it I let him know that he was bias and that it was not true so, I refused to sign it. Chris Fountain, Stan Gryzbowski and I were all working together that day and all three of us went to lunch at the same time. Only Chris and I were given the write up. I made the comment about him (Dave Levenson) being bias due to Chris and myself being black and that Stan was white. I asked Dave for the employee connection phone number and he said that he did not have the phone number at that time but would get it for me. Up until the day I was discharged he never provided me with the phone number. Dave Levenson made a comment to Tim Slaughter that he was afraid of me because I called him bias. From that time on he continued to scrutinize my

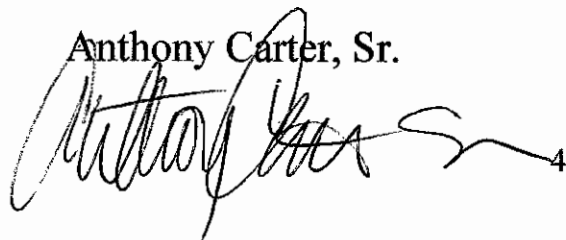
Marmon Keystone Work History

Work daily. For example, he would tell Tim that I wasn't doing a job fast enough or if he couldn't find me he wanted to know where I was and what I was suppose to be doing. Any dirty job to be done he made sure it was given to me. During that time I was learning new jobs for example, sand blasting, welding painting and torch cutting.

This scrutinizing continued for approximately eight months when I decided I had enough and decided to call a meeting with Tim Wamba, Dave Levenson, Tim Slaughter and Deborah Burt from Human Resources. The meeting lasted approximately 2 ½ hrs. I started by telling them that I was being discriminated against in violation of title VII of the civil rights act of 1964. I talked about how I felt and that they were discrimination against me, example, pay and work assignment. To end the meeting Tim Wamba gave his overview of the meeting. He told me what I had to do to get a raise but could not guarantee me a raise when I completed the tasks he was given me. I let him know that to that day of the meeting 26 Jan. 04 that Dave Levenson had not given me the employee connection phone number. Deborah Burk provided me with that number at the end of the meeting. I was not happy with the outcome so, I took the next step and called the Employee Connection number the very next day. I spoke to Linda D. McCue at the employee connection. I advised her of the meeting that I had on 26 Jan.04 and she told me that she was going to check into my complaints and that she was going to get back with me by the end of the week. I received a letter from her on 13 Feb.04 which was dated for 9 Feb.04. The letter was received to me on Friday the 13th not allowing me the opportunity to respond to it.

I was discriminated agents and retaliated against in violation of the Title VII of the Civil Rights act of 1964, as amended and the Delaware Discrimination in Employment Act based on race.

Anthony Carter, Sr.

A handwritten signature in black ink, appearing to read 'Anthony Carter, Sr.', with a stylized flourish at the end.

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES THAT
COPIES OF THE FOREGOING WERE CAUSED TO BE
SERVED THIS 22nd DAY OF JAN., 2007 UPON THE
FOLLOWING IN THE MANNER INDICATED

BAYARD J. SNYDER
SNYDER & ASSOCIATES, P.A.
300 DELAWARE AVENUE
SUITE 1014
WILMINGTON, DEL

ANTHONY CARTER, SR.
28 MONTICELLO BLVD.
NEW CASTLE DEL 19720

(302) 562-7587

